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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,692	02/10/2004	Walter Howard	77070	7393

7590 02/14/2006

Fitch, Even, Tabin & Flannery  
Suite 1600  
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EXAMINER
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TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/774,692

Applicant(s)

HOWARD ET AL.

Examiner

Lien T. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Claims 11-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohmura et al for the same reason set forth in the previous office action.

In the response filed 10/26/05, applicant argues Ohmura et al nowhere refers to bread loafs comprised of slice bread, much less toasting and compressing treatments conducted on individual slices of crusted bread. The examiner respectfully disagrees with applicant. There are ample teachings of bread loaves in Ohmura et al. For example, on column 6 line 12, Ohmura et al discloses loafroll bread; in example 2, there is disclosure of hemispherical loaf bread. Examples 4-7 discloses miniloaf breads, examples 18-28 disclose loaf breads and example 33 discloses miniloaf breads. All bread loaves will have a crust on the outside. Thus, it is obvious that the breads in Ohmura et al have crust. Furthermore, Ohmura et al disclose on column 6 lines 61-62 "the bread having a ratio of the crust portion to the total surface area of 70% or more". As to the compressing conducted on individual slices of crust bread. Applicant attention is directed to column 6 lines 45-50 where Ohmura et al disclose "it may be subjected to the treatment capable of decreasing its bulk after the division (for example, slicing)". This disclosure clearly suggests that the compression can be applied to individual slice of bread. As to toasting, Ohmura et al teach heating treating the food product; thus, it would have been obvious to one skilled in the art to use any conventional method of heating that is applicable to the particular product. It is notoriously well known in the art to toast bread product. Applicant further argues Ohmura et al nowhere elaborate, exemplify or otherwise enable one of ordinary skill on how to introduce filling into a previously baked bread loaf after the bulk-decreasing treatment. This argument is not

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persuasive. Applicant's attention is directed to column 18 lines 53-63 where Ohmura et al disclose " the expression containing an edible filling involves all of the cases where specific food material is sandwiched between food such as breads.... A specific food material is applied or placed onto the surface layer of a food such as a bread". This disclosure clearly teaches one how to introduce a filling into a previously baked bread loaf after the treatment because Ohmura et al teach the filling may be introduced after the compression. Even without this disclosure, placing fillings on bread slices to make a sandwich would have been readily apparent to one skilled in the art because the making of sandwiches is notoriously well known in the art. Applicant further argues that cracking will not result because Ohmura et al compress an entire loaf. As pointed out above, Ohmura et al also teach compressing slice of bread. As to applying oil, applicant does not argues why applying oil would not have been obvious and argues that Ohmura et al do not teach treatments of individual toasted slices. As pointed out above, Ohmura et al do teach treating slices. Applicant states the claimed method shows unexpected result as shown in the instant specification. Ohmura et al teach the same method of compression. Thus, any benefit resulting from the compression will obviously be found in the Ohmura et al product. In any event, the claims do not recite any limitation pertaining to the quality of the product.

Applicant's arguments filed 10/26/05 have been fully considered but they are not persuasive.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cano Milton can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 9, 2006

  
LIEN TRAN  
PRIMARY EXAMINER  
